

## REMARKS

The last Office Action of October 21, 2010 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 15-33 are pending in the application. Claims 15, 18 and 28-31 have been amended. Claims 16, 17, 25, 26 and 32 have been canceled. Claims 15, 18-24, 27-31 and 33 remain in the application. No fee is due.

### CLAIM REJECTIONS - 35 USC § 112

Claims 15-33 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement.

Claims 16, 19-24, and 29-32 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite in that they fail to point out what is included or excluded by the claim language. These claims are allegedly omnibus type claims.

Applicant respectfully submits that the amendments to the retained claims overcome the rejections under §112, first and second paragraph.

### CLAIM REJECTIONS - 35 USC § 102

Claims 15-17 and 21-27 are rejected under 35 U.S.C. §102(b) as being anticipated by US Patent 5,960,899 to Roach.

Claims 15 and 18 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,460,822 to Lee.

Claim 15, which has been amended by incorporating subject matter from canceled claims 25 and 26, now recites a machine system having a vibration characteristic, wherein the system includes a machine having a plurality of different mounting locations, a top-mounted cooler of the machine, and a mounting system for mounting the top-mounted cooler on the machine at selected ones of the plurality of different mounting locations disposed on the machine. The mounting system has at

least one coupling element and produces a vibration characteristic of the machine system. The vibration characteristic of the machine system depends on the selected mounting location of the top-mounted cooler on the machine or a characteristic of the at least one coupling element, or both.

Roach discloses a mechanism for mounting a radiator above a vertical shaft engine. A cooling fan is positioned directly above the engine for pulling air downwardly through a radiator positioned directly above the engine and fan. The radiator is supported in its position above the engine by being rigidly fixed with support members. The support members are rigidly fixed with and extend upwardly from the frame. The radiator is held in position by the support members and is not supported by the engine, and therefore the radiator is generally isolated from engine vibrations by the elastic mounting units. (Emphasis added)

In other words, in Roach, the cooling fan mounted on a separate frame, via mounting units which allow the engine to vibrate with respect to the frame for reducing the amount of vibration that is transmitted from the engine to the frame during operation of the engine. The cooling fan is therefore, unlike with the present invention, not part of the vibrating engine-cooling fan system.

Because in the present invention, the cooler of the machine is mounted on mounting locations disposed on the machine, Roach fails to disclose each and every feature recited in claim 15 and hence does not anticipate claim 15. Furthermore, because changing the attachment of the radiator in the Roach document does not change the vibration characteristic of the machine system, meaning the machine and the top-mounted cooler, Roach's system also fails to perform the intended functionality of the system of the invention. Claim 15, as amended herein, is therefore patentable over Roach.

Lee discloses an engine mount 100 preventing transmission of vibration and noise to the frame 200 constituting the vehicle body. A mounting rubber bush 110 has integrally formed fixing portion 11 and engagement portion 112 and is attached to the frame 200. The engagement portion 112 engages with the engine bracket 310 formed in the power train 300. A power train is typically understood to include both the engine and the transmission and constitutes a single component.

Accordingly, Lee like Roach, fails to disclose attaching the claimed top-mounted cooler of the machine, and a mounting system for mounting the top-mounted cooler on the machine at selected ones of the plurality of different mounting locations disposed on the machine. Lee therefore does not anticipate claim 15.

### **CLAIM REJECTIONS - 35 USC § 103**

Claims 19 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Roach in view of Official Notice provided by the Examiner.

Claims 16 and 28-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over Roach.

The Official Notice does not refer to the elements and features recited in claim 15 and not disclosed by Roach.

The arguments presented above in regard to the rejection of claim 15 over Roach under 35 U.S.C. §102(b) apply, *mutatis mutandis*, likewise to the rejection of claim 28 under 35 U.S.C. §103(a). Accordingly, applicant submits that claim 28, as amended herein, is patentable over Roach.

Applicant submits that claims 18-24 and 27, which depend from claim 15, and claims 29-31 and 33, which depend from claim 28, are then also allowable for at least the reasons that claims 15 and 28 are allowable.

### **CONCLUSION**

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested

that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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